



Opportunities for accredited mediators to expand their practice into the arena of employment and workplace mediation

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Profile of the current mediator 'population'

- Labour, community, family mediation relatively well established in SA since mid 1980's
- Commercial, employment and workplace mediation less so
- Most mediators are accredited for the traditional fields, and many work across a range of specialisms
- DiSAC established to, amongst other things, regulate the standards of mediator training and accreditation across fields



Profile of the current mediator 'population' cont.

- 40-hour minimum standard for training, accepted by the DOJ as a baseline for CAM accreditation
- Many mediators updating their training to meet this standard, and to acquire specialist skills in medico-legal, workplace, insurance mediation
- What about extending your practice to also work in employment and workplace mediation?

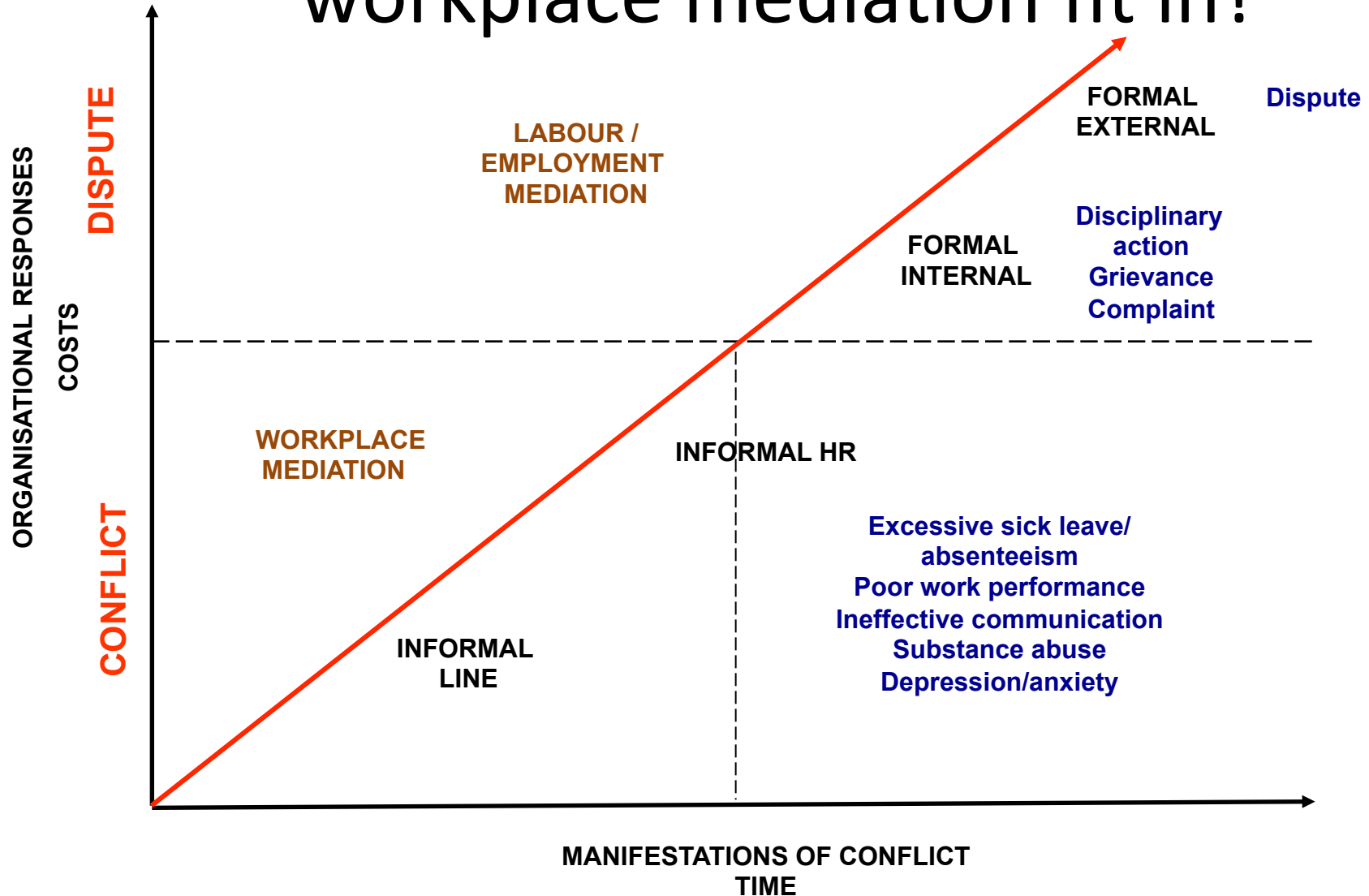


Employment and workplace mediation as ‘new frontiers’ for mediators

- Workplace mediation takes place at an early stage in the conflict, between people who work together and where there is still potential for a future working relationship
- Employment mediation takes place when future working relationships are unlikely and employment may be terminated or has already been terminated, and terms are to be negotiated between the employee and the employer



Where do employment and workplace mediation fit in?





Points of difference and similarity

WORKPLACE MEDIATION

- May be similar to family mediation
- Early in the life of the conflict
- Staged and flexible process
- Initial private meetings but mostly in joint meeting
- Aims to resolve conflict and restore working relationships
- Commissioned by employer

EMPLOYMENT/LABOUR/ COMMERCIAL MEDIATION

- Similar format
- Usually at the point of dispute
- Usually one day less flexible process
- Mostly private meetings
- Aims to end dispute and end employment relationship
- Commissioned by parties



Points of difference and similarity

cont.

WORKPLACE MEDIATION

- Mediator may be selected by referrer
- Issues concern working relationship
- High emotional content
- Unrepresented parties
- Written agreement to mediate
- Memorandum of agreement / action plan
- Agreed feedback to referrer
- Style of mediator facilitative to transformative

EMPLOYMENT/LABOUR/ COMMERCIAL MEDIATION

- Parties select mediator
- Issues concern terms of separation
- Can be less emotional
- Parties represented
- Written agreement to mediate
- Settlement agreement
- Absolute confidentiality about outcome
- Style of mediator facilitative to evaluative



Experience of workplace mediation in the UK*

- Mediation has become a significant part of workplace dispute resolution regimes since Gibbons Review (2007)
- Mediation by an impartial third-party is provided for within many written disputes procedures
- Mediation is more likely to be used where it is formally provided for in grievance and disciplinary procedures, more the case in the public sector
- Mediation is seen as part of, rather than an alternative to, the procedural framework of workplace dispute resolution
- Mediation is used equally in private and public sector organisations, and organisational size is not a significant factor



Experience of workplace mediation in the UK* cont.

- Educational and health employers in the public sector
- Construction, hotels and restaurants, wholesaling and retailing, multi-site organisations in the private sector
- Mediation in the public sector mostly by internal mediators
- Mediation is more likely to be included in procedures in unionised workplaces
- Mediation is not necessarily used to prevent disputes, but may be one response to rising levels of conflict and the experience of increased litigation in employment disputes i.e. experience of litigation may have encouraged organisations to turn to mediation



My experience of workplace mediation in the UK

- Culture of early mediation and conciliation of workplace and employment disputes
- No union opposition
- Growing opportunities to mediate workplace disputes
- Mostly universities, hospitals, international agencies and financial institutions, and specialist private sector employers
- In the public sector, it's an option in the formal procedure and employers keen to comply



My experience of workplace mediation in the UK cont

- In private sector, it's suggested by lawyers as a way of avoiding litigation and keeping valued senior staff
- May start off as workplace mediation and convert into employment, or visa versa
- Settlement rates very high, positive feedback on follow-up
- Sensitive nature of mediation leads to repeat business
- Benefit from specialist training because skills and style are different



Is this for you?

If it is, how do you get going?

- Attend our session tomorrow to find out more
- Attend specialised training to expand your existing mediator skills and adapt your style
- Identify key gatekeepers and potential referrers in your existing networks and educate them about the benefits of workplace mediation
- Look out for opportunities to 'nip conflict in the bud' by offering workplace mediation